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Plaintiff, appearing Pro Se

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION

**PRESTON BERMAN,**

Plaintiff,

v.

**PSYCHIATRIC SECURITY REVIEW BOARD;  
ALISON BORT**, in her official capacity as  
Executive Director of the Oregon Psychiatric  
Security Review Board,

Defendants.

Case No: 6:24-cv-01127-MK

MOTION FOR APPOINTMENT OF  
COUNSEL

Plaintiff, appearing pro se, respectfully moves this Court to appoint counsel to assist in this case pursuant to 28 U.S.C. § 1915(e)(1) and 18 U.S.C. § 3006A(a)(2)(B). The grounds for this motion are as follows:

**1. Lack of Experience with Discovery Procedures**

Plaintiff lacks experience managing the discovery phase of a trial, including complying with procedural rules such as submitting materials under seal. This case involves hundreds of exhibits from Plaintiff's PSRB proceedings, and Plaintiff's limited

access to legal resources makes managing discovery particularly challenging. Furthermore, Plaintiff will need to subpoena members of their treatment team to provide testimony regarding readiness for community placement and their opinion that Plaintiff no longer presents a substantial danger due to a mental condition, which qualifies them for jurisdictional discharge under *Foucha v. Louisiana*, 504 U.S. 71 (1992).

Plaintiff also lacks access to the CM/ECF electronic filing system, requiring all filings to be submitted by mail, which can take over a week to be docketed if they aren't lost in the mail. This delay significantly hinders timely responses and submissions.

## **2. Limited Access to Court Resources**

Plaintiff's confinement at OSH imposes severe restrictions on their ability to participate in litigation effectively. Computers have been removed from patient rooms, and Plaintiff can only access a computer for one-hour blocks of time in the treatment mall. This limited access makes it difficult to manage the demands of discovery, filings, and legal research. Additionally, Plaintiff is unable to represent themselves effectively in person at hearings or depositions due to confinement.

## **3. Complexity of Due Process Claim**

Claim II, the due process claim against Defendant Alison Bort in her official capacity, addresses systemic issues that affect all individuals under PSRB jurisdiction. The resolution of this claim is critical to safeguarding the rights of this population. Plaintiff's lack of legal training and professional expertise limits their ability to litigate this complex constitutional issue. These legal and factual complexities necessitate professional legal representation to ensure the case is decided on its merits rather than being jeopardized by Plaintiff's lack of legal training.

**4. Plaintiff's Communication Challenges**

Plaintiff communicates substantially better in writing than verbally, which poses additional challenges during in-person hearings, depositions, and trial. Legal counsel would ensure effective representation during these proceedings.

**5. Narrowly Tailored Appointment Request**

If the Court declines to appoint counsel for the entirety of the case, Plaintiff respectfully requests narrowly tailored counsel specifically for critical phases such as hearings, depositions, discovery, and trial.

**Relief Requested**

For the reasons outlined above, Plaintiff respectfully requests the appointment of counsel to ensure a fair and effective presentation of their claims. If this request is denied, Plaintiff seeks reconsideration for CM/ECF access to mitigate the procedural disadvantages caused by delayed mail filings.

DATED: November 14, 2024.

Respectfully submitted,

s/ Preston Berman

PRESTON BERMAN

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Plaintiff, appearing Pro Se

**CERTIFICATE OF SERVICE**

I certify that on November 14, 2024, I served the foregoing MOTION FOR APPOINTMENT OF COUNSEL upon the parties hereto by the method indicated below, and addressed to the following:

ELLEN F. ROSENBLUM  
Attorney General  
JILL SCHNEIDER #001619  
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Attorneys for Defendants

☐ HAND DELIVERY  
☒ MAIL DELIVERY  
☐ OVERNIGHT MAIL  
☐ TELECOPY (FAX)  
☒ E-MAIL  
☐ E-SERVE

DATED: November 14, 2024.

Respectfully submitted,

s/ Preston Berman  
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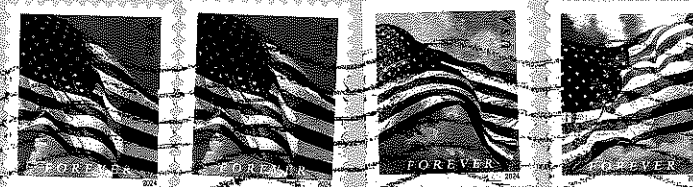
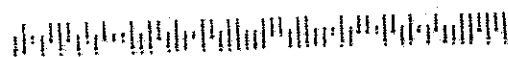
Plaintiff, appearing Pro Se



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